

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

LAWRENCE WILLIAMS

VS.

**CHRIS W. DAVIAU AND A1A
TRANSPORT, INC.**

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CIVIL ACTION NO. 5:21-CV-00556

**NOTICE OF REMOVAL OF ACTION UNDER
28 U.S.C. § 1441(B) (DIVERSITY)**

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant, **CHRIS W. DAVIAU AND A1A TRANSPORT, INC.**, hereby removes to this Court the state court action described below.

1. On February 5, 2021, an action was commenced in the 407th Judicial District Court of Bexar County, Texas, entitled, *Lawrence Williams vs. Chris W. Daviau and A1A Transports, Inc.*, in Cause Number 2021CIO2387. A copy of the suit is *attached hereto as Exhibit A*.

2. The first date upon which Defendants, Chris Daviau and A1A Transport, Inc., received a copy of the said complaint was May 18, 2021, when Plaintiffs Counsel advised the carrier for Defendants that petition was served. A copy of the citation issued is *attached hereto as Exhibit B*. In accordance with Local Rule 81, the following constitutes all of the executed process, pleadings, and orders served upon Plaintiff and Defendant in this action:

- A) Plaintiff's Original Petition;
- B) Copy of Citation issued to Defendants Chris Daviau and A1A Transport, Inc.;
- C) Docket Sheet – State Court; and
- D) Defendant's Original Answer and Affirmative Defenses to Plaintiff's Original Petition.

In addition, and in accordance with the Local Rule, Defendant includes a copy of the Bexar County District Clerk's docket sheet of the state court matter a copy of which is *attached hereto as Exhibit C*.

3. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §1332, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1441(b) in that it is a civil action wherein the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, and is between citizens of different states. On May 18, 2020, Plaintiff served upon Defendant, Plaintiff's Original Petition, a copy of which is attached hereto as **Exhibit A**. In this Original Petition, Plaintiff plead that he seeks monetary relief aggregating \$250,000 or less, excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs to which Plaintiff is justly entitled. As such, the amount in controversy is in excess of \$75,000.00, and removal is appropriate pursuant to 28 U.S. § 1441(b).

4. Defendant is informed and believes that Plaintiff was and still is a citizen of the State of Texas and resides in, El Paso, El Paso County.

5. Defendant Chris W. Daviau is a resident of Worcester County, Massachusetts.

5. Defendant, A1A Transport, was, at the time of the filing of this action, and still is a corporation incorporated under the laws of the State of Oregon, having its principal place of business in the State of Oregon, and has been served summons and complaint in this action.

6. Copies of all pleadings, process, orders and other filings in the state-court suit are attached to this notice as required by 28 U.S.C. §1446(a).

7. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending is located in this district.

8. Defendant will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

9. Plaintiff and Defendant demanded a jury in the state court suit.

10. For the foregoing reasons, Defendant asks the Court to remove the suit to The United States District Court, Western District of Texas, San Antonio Division.

Respectfully Submitted,

RESNICK & LOUIS, PC

s/ Stephen E. Irving

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ATTORNEY FOR DEFENDANTS

CHRIS W. DAVIAU AND A1A

TRANSPORT, INC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all counsel of record via electronic filing in accordance with the Texas Rules of Civil Procedure, on this, the 10th day of June 2021.

/s/ Stephen Irving
STEPHEN IRVING